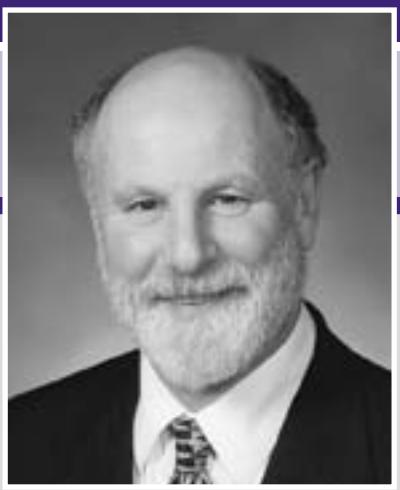
END OF SESSION REPORT

Senator Adam Kline

37TH LEGISLATIVE DISTRICT • SPRING 2006



Dear Neighbors,

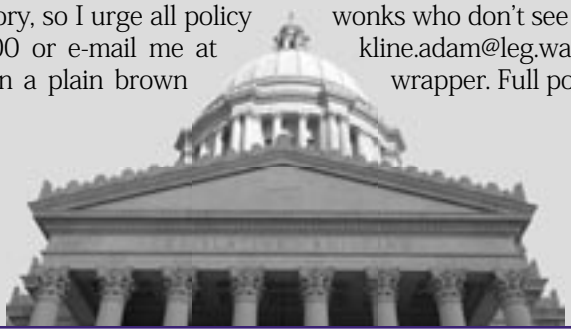
Two months in that soggy town, Olympia, and I'm glad to be home. The weather people tell us we set a record — 35 consecutive rainy days—which no doubt explains why the Legislature cut out a day early. Here's a recap of some of the highlights.

This edition focuses first on the yet-to-be-enacted Reporter's Shield bill, which will make it past my own party's leadership next year, I promise; then on to why I plan to say No to the Sonics and Yes to fiscal responsibility; how the Legislature was good to babies and to 18-year-olds in foster care; how Seattle almost lost the right to choose a tunnel to replace the Alaskan Way Viaduct; why you'll soon have canola oil in your gas tank and, best of all, how we solved the WASL/graduation dilemma. Then, a few paragraphs on what we just did to clean up electronic waste and to keep Weed and Seed in business. And all this in a Grammatically Correct format suitable for precocious children.

There's never enough space here to tell the full story, so I urge all policy wonks who don't see their favorite issues discussed here to call me at (206) 625-0800 or e-mail me at kline.adam@leg.wa.gov, and get the real lowdown. The details will be sent to you in a plain brown wrapper. Full political therapy sessions by appointment only. I love this job!

Have a great summer!

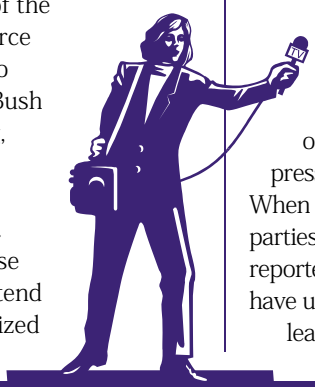
Adam Kline



The Reporters' Shield

Every now and then an issue arises in the Legislature that, for some individual legislator, is both a timely political issue and a matter of personal importance. As a former newspaper reporter and long-time ACLU lawyer, I am sensitive to the tendency of our current federal administration to operate in secrecy, and of bureaucracies at all levels to resist the probing of news media.

The jailing last year of a New York Times reporter who had information on the outing of a CIA agent, and the ongoing investigation of the reporters and their source — those heroes! — who broke the story of the Bush administration's spying, should serve as a warning to those who value a truly free press. Governments, even those nominally democratic, tend to become institutionalized and secretive unless the public *constantly* asserts its right to know.



When our Founding Fathers in the 1780s wrote our Bill of Rights, it was not by chance that freedom of the press was placed at the top of the list. Then, as now, the press was the "eyes and ears" of a curious and assertive public. As important as it was for government's power to be divided into the three branches, and to be dispersed among federal, state, and local authorities, it was also necessary to keep *all* government powers under the constant surveillance of the public itself.

Over the years, the courts of most states and the legislatures of some have protected the freedom of the public to know, through the press, what their government is up to. When government agencies or private parties have sought information from news reporters regarding their sources, courts have usually responded by imposing at least a *qualified* privilege: qualified in the sense that the private party seeking this information must show a greater need for it in order to overcome the public's right to have its source of information protected. The courts in our state already impose this requirement, as to both the identity of a reporter's *source* and unpublished *information* in the reporter's notes.

Last fall, Attorney General Rob McKenna proposed that the reporter's privilege be codified, and further, that the privilege regarding the *source* be made *absolute* rather than qualified. While a qualified privilege can be weighed by a judge against another party's right to have any information, an absolute privilege is inviolable. Our law allows very few absolute privileges: those between doctor and patient, attorney and client, priest and penitent. In these relationships, the law recognizes society's interest in unfettered truth, and that can be assured only by a degree of privacy that not even a judge can invade.

(Continued next page)

(The Reporters' Shield, cont. from page 1)

Consider a reporter who gets a call from a potential source, who tells her, "I have information on major wrongdoing in the agency in which I work. The public needs to know this, and I'm willing to give it to you. But I can lose my job over this. *Can you keep my name out of it?"* The information may be about deputy sheriffs who have committed crimes, or accounting mistakes in the school district, to use two recent examples. With an absolute privilege, the reporter's answer can be a flat "Yes." Not "Gee whiz, I'll try." Not "I'll go to jail for as long as I can stand it." Simply, "Yes."

I agreed wholeheartedly with the Attorney-General, and met with the two attorneys who had prepared a draft bill. With me was the ranking Republican on the Senate Judiciary Committee, which I chair. This was the stuff of bipartisan coalitions, and I feel strongly that this had to be a bipartisan effort from the outset. Together, we introduced Senate Bill 6216. An identical bill, House Bill 2452, was introduced in the House of Representatives.

The long and short of it—SB 6216 received a favorable vote in the Judiciary Committee, but met resistance on the Senate floor. HB 2452 made its way through the House more quickly, and came across with a vote of 87-11. The House vote was clearly *not* along party lines, and some senators of both parties had been publicly voicing their opposition. Some of my colleagues favored an absolute privilege for both source *and* information; others favored only a qualified privilege for both, which the courts already allowed. Still others groused about their local papers, and saw the privilege as an unneeded perk.

In any case, the Republican co-sponsor and I anticipated opposition in both our caucuses. I asked the Attorney-General to speak to the Republican caucus. On our side, I went literally from desk to desk on the Senate floor, in the time-honored manner, explaining the technical aspects to each senator, cajoling each one, listening to each in turn, and counting the votes. My Republican ally did the same. In the end, we had 28 "hard" votes between us, a bare majority, consisting of roughly equal members of both parties.

Unfortunately, HB 2452 died on the Senate floor on the last day of the session because of concerns that the caucus was not in agreement. I continue to believe that this bill was good public policy and will work to further educate my colleagues.

Foster Care Improved

Two years ago, our state's foster care system flunked a federal review. Soon after, a chastened state Department of Social and Health Services (DSHS) reached a settlement in a class action lawsuit brought by social services advocacy organizations, which had claimed that foster children were routinely deprived of their legal rights. Given the cuts imposed in a series of three consecutive No New Taxes Budgets, these results were predictable.

About 400 youths in the foster system turn 18 each year. Currently, kids in state-sponsored foster care "age-out" of the program at that point. This means they very suddenly, on their 18th birthday, lose their housing, support, and medical assistance. Unless their foster parents are willing to support them with their own funds, they are *literally* on the street. It's no surprise that less than half of kids who age out of foster care graduate from high school or get a GED, compared to 85% of the general population. Six to 12 months after aging out, foster youth have a higher likelihood than 19-year-olds in the general population of being clinically depressed, pregnant, arrested, on public assistance or homeless. One-third were on assistance within 18 months, and one quarter suffered post-traumatic stress syndrome—a higher rate than for combat veterans.

This year, we reversed the trend. As of this writing, the Governor plans to sign the Foster Care Achievement Act, HB 2002, which grants DSHS the authority to allow up to 50 of these youth to participate in a college or vocational program, and to receive necessary support and transition services until his or her 21st birthday. In 2007 and 2008, 50 additional foster kids per year will be added to this program.

The state has a duty to the young people in our foster care system. Kids enter the foster care system almost always as a result of adult misbehavior, not their own. The Foster Care Achievement Act is an important piece of a more comprehensive change needed in the way we treat them. I believe that making it easier for youths to continue their education will both improve the lives of the youth under our care, and bring long-term benefits to the community.

This was an expensive proposition, carrying a fiscal note of some $1.7 million per year when fully implemented in 2008. That's about $11,000 per year per student. There are those, especially among the No New Taxers, who see these expenses as so much liberal fluff, having no benefit to hardworking taxpayers. The fact is, though, even from the hard-nosed viewpoint of those who would "run government like a business," this move will lead to a long-term cost-avoidance in prosecution, incarceration and social services that will far outweigh its initial outlay. In hard dollars alone — forget the personal cost — this is an example of cost-effective government.

Beyond that, it's a step toward the reclamation of human lives. These were "disposable kids." We want them back.

Birth to Three

You'll be pleased to know that on March 1, the Senate unanimously passed HB 1107, which provides for early-intervention services for children from birth to age three who have a disability. This is a great piece of legislation, and I'm proud of everyone who brought this bill to fruition.

Advocates have worked long and hard to make sure that public schools provide instruction and related services that are specially designed to meet the unique needs and abilities of students with disabilities. Under current law, an individualized curriculum for each disabled student is provided at no cost to eligible students in the state between three and 21 years of age. School districts *may* provide early intervention services to preschool-age children with a disability, and a very few, thankfully

Tunnel vs. Viaduct

It appears that some legislators believe that the state should usurp Seattle's authority over our local roadways. Late in the session, the House Transportation Committee approved a supplemental transportation budget with an amendment that would effectively *prohibit* replacing our crumbling Alaskan Way Viaduct with a tunnel unless full funding for the project could be found by April 1 of *this* year. The fact that this amendment passed the House Transportation Committee with a vote of 26 to 2 took many of us off guard. The amendment was later removed in the House, thanks to the lobbying efforts of environmental organizations and the vigilance of Seattle's delegation in the House.

The state and city have been working for years to replace the viaduct, part of Highway 99, which was damaged in the 2001 Nisqually earthquake. Seattle has opted to replace the viaduct with a tunnel, which would cost more initially, but which would open the waterfront to new recreation and development that would pay back the difference over time, and which would provide this city a true facelift. The city has asked the state and federal governments for help. The project is urgent, since we all expect another earthquake, and the current structure is already shifting from the last one.

The Legislature in 2005 set aside $2 billion, a little less than the cost of a replacement viaduct. The Legislature made it clear, through the public pronouncements of its leading members on the House and Senate Transportation committees, that no further funds would be forthcoming. More is going to be required for a tunnel, which has a price tag now of $3.7 billion. (That's after a saving of $400 million from deferring the repair of a portion of the sea wall north of the Battery Street tunnel, where the route turns inland.) Our mayor is actively seeking a federal contribution, and the city council will ask the voters to approve a bond-issue for whatever amount remains as the local portion.

I believe the tunnel is the better solution for a variety of reasons. But there is something more at stake here than a decision between another viaduct and a tunnel, and that is whether local authority over roadways should be removed by state government. The rule has always been that local governments lay out their roads, bridges and other infrastructure, and ask for state (and sometimes federal) assistance where needed. A major bridge, viaduct or other feature would most likely require outside help. The state and federal governments get to say yes or no to the money, so cities and counties exercise some fiscal restraint in these decisions. But the initial decision is that of *local* government.

I support the city's strategy very strongly, and for this reason I actively opposed the House amendment. There are several reasons for my opposition — preservation of the city's connection to the Sound and Elliott Bay, and the economic advantages of a working waterfront chief among them — but the one that most strongly motivated me to oppose this was simply local control. Olympia frequently tells Seattle to do business according to the instincts of legislators from Rosalia, Pasco and Copalis. There is a provision in *state* law governing Seattle's Woodland Park Zoo. That one of the folks behind this short-lived amendment was a fellow Seattle liberal makes no difference whatsoever.

A side note: What made the deal worth saving for the environmental groups was a favorable ratio of transit to highways in the transportation budget to which the amendment was attached. Yes, count this as a win!

including the Seattle Public Schools, have done that voluntarily for years. HB 1107 mandates that, by fall of 2009, school districts must either provide or contract for early intervention services in partnership with local childcare agencies and providers.

Early intervention is a key part of early learning. The children who receive these services encounter fewer medical and educational difficulties when they enter kindergarten. Families gain because they learn how to work with their child, and schools gain because children are prepared when they come to school.

Every child should have the benefit of a gently stimulating environment – being held, squeezed, talked to, carried about, shown the world a comprehensible bit at a time.

I believe that some parenting skills are hard-wired into humans, but many of us need to be shown how or reminded how to be a good parent. As the saying goes (and as every parent knows), children don't come into this world with an instruction manual. Children with disabilities may provide even more complicated parenting challenges. The state can't mandate good parenting. (We can't police parents.) But we can help those kids who need it the most.

A Compromise on WASL

Years ago, I thought it was a quaint Christmastime drinking song, this WASL, then found out it's a test we give kids. The Washington Assessment of Student Learning has become something of a test for those of us who favor greater public investment in education, since it pits some parents against others, not to mention teachers, administrators, academics, and that great abstraction that looms over them all: the best interest of our children. Take for example the question of whether passing the WASL should be a high school graduation requirement.

Argument A: "We do kids no service at all by letting them skate on tough tests. Life's full of tough tests. They need to know we have high expectations, and if properly taught, they will rise to meet them. They need to pass this test to graduate."

Argument B: "Properly taught! These kids being properly taught, 28 to a classroom? Tough love has its place, but you have to *support* the students before they can meet real expectations, otherwise you set them up to fail — not just in school, but in life."

As someone who understands both arguments, I am happy to report that with Senate Bill 6475, we have a compromise in the WASL debate. In 2004, we passed the requirement that starting with the high school class of 2008, all students would have to pass the WASL in reading, writing, and arithmetic, and starting with the class of 2010, in science. If a student failed twice, an alternative route to graduation would be provided, and since we had some years before this took effect, we had the Office of the Superintendent of Public Instruction (OSPI) study the possible alternatives and report back. This year, with that report in hand, we provided these alternative routes for students who've participated in remedial education *and* have at least a 95% attendance record:

First, the student may be deemed to have passed the WASL in a subject if his or her grades equal the mean grade in that subject, attained by students in the same school who took the same course, and who passed the WASL.

Second, the student can submit a sample of work; the exact types of work are left to OSPI to specify in a rule later this year. These must be graded according to statewide criteria. This is the preferred route for vocational and career students.

Third, for math, the State Board of Education will recommend to the Legislature by Dec. 1, 2006, a single statewide minimum score on the math portion of each of the standardized college-application tests (the SAT, PSAT, and ACT). Once that score is approved, achieving that score or better will allow students to pass the math portion of the WASL.

The point of this exercise is to avoid putting kids in a bind. Passage of all parts of the WASL should be a requirement for graduation. But first, we have to create and fund the adequate basic education that prepares students — at least those who work reasonably hard at it. Only then will we be warranted in insisting that our kids take a tough test with their diplomas at stake.

The Sonics and Key Arena

As it turned out, the Mayor and City Council will have another year to negotiate a deal to take the place of the Sonics' current lease on Key Arena. Since it must inevitably turn on public revenues derived from the state-imposed tax on hotel stays and car rentals, the Legislature will have effective veto power. Here are a few considerations that will guide me — short of a religious conversion — to vote No.

First, there is no empirical evidence that major league sports teams and their stadiums or arenas are effective drivers of local or regional economies. One comprehensive study of the subject found just the opposite: "no statistically significant positive correlation between sports facility construction and economic development." It's one thing to feel good about the local team, and yes, that does mean something, and yes, I'm willing to put a few bucks on that alone. But this project has been sold to Seattle as economic development. It isn't. It seems that dollars spent at sports events are not *new* dollars, but rather dollars that otherwise would have been spent at local movie theaters or restaurants.

Second, a subsidy to a sports franchise is an inefficient way to preserve jobs. Assume an investment of public funds to the tune of $200 million is linked to a deal to keep the Sonics and Storm for 20 years. Basketball games are 40% of the Key Arena's events, but let's be generous and say the Sonics and Storm account for half the Key's jobs. That's 800 jobs, mostly low-wage, part-time, or seasonal. The cost of preserving them is $250,000 per job, or $12,500 per year—roughly about what those jobs pay. That's not merely inefficient; it's a waste of the funds that could otherwise be used to create an environment through work force education or other means that could entice professional-level jobs in the sciences and medicine.

Third, don't bet the Sonics will stay the whole lease-term anyway. In every sport, there are more would-be major league cities than there are major-league teams, and that's by design. The leagues are run by the team-owners, who decree expansion at a very slow rate if at all, thus creating scarcity and giving themselves the upper hand in negotiating with their cities. Nationally, quite a few cities have found themselves victims of economic leverage by teams seeking bigger, better, newer stadiums or arenas on the taxpayers' nickel.

Fourth, we have more important things to do with public money than spend it on millionaires.

Biofuels and Bipartisanship

Gov. Gregoire will soon sign into law a bill that I co-sponsored, along with senators from farm country and from western Washington's various ecotopias. The city mice and the country mice are together on this, and with good economic and environmental reason.

SB 6508 will require that a certain percentage of motor fuel be obtained from the renewable sources of ethanol or biodiesel. California, Ohio, Hawaii, Minnesota and Montana all have rules for using bio-fuels on a state level. In our state, we can expect to boost the very small existing market of dedicated farmers, manufacturers, sellers and consumers of biofuels.

All gasoline sold in Washington will soon have to contain at least 2.5% ethanol. For diesel fuel, the minimum will be 2% biodiesel. The requirements can be increased as Washington farmers produce more ethanol and biodiesel, and as engine technology improves.

Substituting biofuels for 100% petroleum products will improve air quality, reduce dependence on oil, help diversify and create new markets for farmers, and improve the local economy. Biodiesel in particular has been proven a success by the many businesses, agencies and individuals who currently use it on a regular basis.

Making use of biofuels will create complications that will, hopefully, breed solutions. For example, biodiesel, like the #2 diesel fuel in common use, jells at very low temperatures. 100% biodiesel fuel jells at a slightly higher temperature than #2 diesel, and may not work reliably at temperatures below zero. But typical blends of 20% biodiesel are managed with the same fuel management techniques as regular diesel. Blends of 5% biodiesel and less have virtually no impact on cold flow. The chilly state of Minnesota, which is years ahead of us with their biofuel mandates, has produced technological advances to address problems like cold-flow issues and filter-clogging. I believe that the step-by-step approach we're taking in Washington will allow us to take advantage of the rapid technological advances being made in the field of biofuels.

But the true genius of this legislation is that it puts farmers and enviros on the same page politically. It creates an economic incentive for *farmers,* not just environmentalists, to seek an increase in those percentages. Farmers understand that the development of a strong biofuels market will give them a steady market for their own products. An oil seed industry will give them an opportunity to diversify and lower their marketing risks. This legislation provides a "date certain" for growers to know that there will be a demand for the crops they can produce, so that they can have the confidence to plant them.

I see this bill as a part of a larger strategy to reduce the impact of automobiles. Automobiles are our largest source of air pollution and are major contributors to urban sprawl, water pollution, oil spills and global warming. Our current war in Iraq is in great part due to our unwillingness to resist SUVs, trucks, and luxury cars. We need to drastically cut down on the burning of fossil fuels, and the sooner the better.

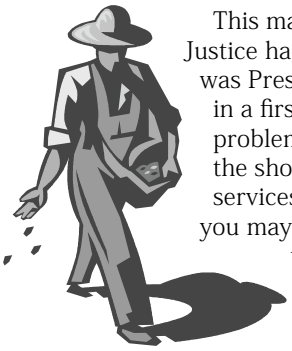
E-Waste to Be Recycled

One of our two major environmental bills this session was SB 6428, an act providing electronic product recycling. This legislation creates a collection, transportation and recycling system to manage discarded computer monitors, desktop and laptop computers, and televisions. The manufacturers will establish, implement and pay for the system. The program must be operational by Jan. 1, 2009 and will be overseen and enforced by the state Department of Ecology. This approach, in which government oversees and enforces an effort by the manufacturers, is a welcome experiment in partnership with the private sector, and avoids the expansion of the state's work force.

A broad coalition of environmental and consumer groups developed this legislation, with the eventual cooperation of the manufacturers and large retailers. Given their high content of heavy metals and other unpronounceables, there are serious health and environmental concerns about throwing our old computers and televisions into our landfills. This legislation should make it more convenient for businesses, charities, schools and individuals to take part in an electronic waste recycling system, and will go a long way to help keep our environment free from toxic waste.

I was a co-sponsor of this legislation and strongly support the bill, which the governor recently signed.

Weed and Seed



This matching-grant program of the U.S. Department of Justice had a rocky start in Seattle back when Poppy Bush was President — its premise was that the feds would send in a first wave of law enforcement to "weed" a designated problem neighborhood like the Central Area, and then when the shooting stopped they would "seed" the area with social services. This military analogy didn't sit well in Seattle, as you may recall, and Mayor Norm set the feds straight. Since then, the program has worked reasonably well, based as it is on a formula of community policing, drug and crime prevention, and help towards a community's physical restoration.

The Central Area, having been assaulted instead by an army of developers, is no longer a designated Weed and Seed site. But Rainier Beach is still on the list, and Weed and Seed has its work cut out there. (The Delridge area in West Seattle is also a site.) Unfortunately, the Justice Department's financial planners experienced a collective senior moment, forgetting that there is a year *between* 2006 and 2008. We call it 2007. That year's funding would not be arriving, DOJ told us, due to a…uh…*hiatus*…related to a staggered funding cycle. Whatever.

Yes, that's right, the Legislature rode to the rescue of Weed and Seed, with a cool quarter-million, to be evenly split between the Rainier Beach and Delridge sites, and to be leveraged by locally-raised funds. Just doing our job, ma'am.

PLEASE KEEP IN TOUCH:

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